

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**K.S., by and through her parents and next friends,
T.S. and A.R.,**

Plaintiff,

vs.

Case No. 1:14-cv-00385 SCY/KBM

**THE SANTA FE PUBLIC SCHOOLS;
VICKIE L. SEWING, in her individual capacity;
THE ESPANOLA PUBLIC SCHOOLS;
RUBY E. MONTOYA, in her individual capacity;
GARY F. GREGOR, in his individual capacity;**

Defendants.

**ANSWER BY DEFENDANTS THE ESPAÑOLA PUBLIC SCHOOLS AND RUBY E.
MONTOYA TO FIRST AMENDED COMPLAINT FOR CIVIL RIGHTS VIOLATIONS,
TITLE IX VIOLATIONS, BATTERY, NEGLIGENCE, AND OTHER TORTIOUS
CONDUCT**

COME NOW Defendants The Española Public Schools and Ruby E. Montoya, in her individual capacity, (hereinafter the “EPS Defendants”), by and through counsel, Jerry A. Walz, Walz and Associates, P.C., hereby answer Plaintiff’s First Amended Complaint for Civil Rights Violations, Title IX Violations, Battery, Negligence, and Other Tortious Conduct as follows:

PARTIES

1. EPS Defendants are without sufficient information or belief to admit or deny paragraph 1 and therefore deny same.
2. EPS Defendants are without sufficient information or belief to admit or deny paragraph 2 and therefore deny same.

3. This allegation does not apply to the EPS Defendants, and the EPS Defendants are without sufficient information or knowledge to admit or deny the allegations in paragraph 3 and therefore deny same.

4. EPS Defendants are without sufficient information or belief to admit or deny paragraph 4 and therefore deny same.

5. EPS Defendants admit that Española Public Schools is a governmental entity and a local public body and that Defendant Española Public Schools is responsible for the administration of public schools within its geographic boundaries. EPS Defendants further admit that Defendant Española Public Schools employed Defendant Montoya and Defendant Gregor. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 5 and therefore deny same.

6. EPS Defendants admit that Ruby E. Montoya was employed by the Española Public Schools as a principal at Fairview Elementary School and that she was the direct supervisor of Defendant Gregor during the time that he was employed at the Fairview Elementary School by Defendant Española Public Schools. The EPS Defendants deny that Defendant Montoya resides in Guadalupe County, New Mexico. The EPS Defendants admit that Defendant Ruby E. Montoya was a public employee and any actions taken by her pursuant to the allegations contained in Plaintiff's complaint occurred in the course and scope of her duties as an Española Public Schools employee under color of state and/or local law. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 6 and therefore deny same.

7. EPS Defendants admit that Defendant Gary F. Gregor had been employed as a teacher at Fairview Elementary School. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 7 and therefore deny same.

8. Paragraph 8 of Plaintiff's Complaint sets forth legal claims and legal conclusions for which an answer is generally not required. To the extent that an answer is required, the EPS Defendants are without sufficient information or belief to admit or deny the allegations in paragraph 8 and therefore deny same.

JURISDICTION AND VENUE

9. Paragraph 9 sets forth a legal conclusion for which an answer is generally not required. To the extent that an answer is required the EPS Defendants are without sufficient information or belief to admit or deny paragraph 9 and therefore deny same.

10. Paragraph 10 sets forth a legal conclusion for which an answer is generally not required. To the extent that an answer is required the EPS Defendants are without sufficient information or belief to admit or deny paragraph 10 and therefore deny same.

FACTUAL ALLEGATIONS

I. THE CAREER AND PREDATION HISTORY OF DEFENDANT GREGOR

11. EPS Defendants are without sufficient information or belief to admit or deny paragraph 11 and therefore deny same.

12. EPS Defendants are without sufficient information or belief to admit or deny paragraph 12 and therefore deny same.

13. EPS Defendants are without sufficient information or belief to admit or deny paragraph 13 and therefore deny same.

14. EPS Defendants are without sufficient information or belief to admit or deny paragraph 14 and therefore deny same.

15. EPS Defendants are without sufficient information or belief to admit or deny paragraph 15 and therefore deny same.

16. EPS Defendants are without sufficient information or belief to admit or deny paragraph 16 and therefore deny same.

17. EPS Defendants are without sufficient information or belief to admit or deny paragraph 17 and therefore deny same.

18. EPS Defendants are without sufficient information or belief to admit or deny paragraph 18 and therefore deny same.

19. EPS Defendants are without sufficient information or belief to admit or deny paragraph 19 and therefore deny same.

20. EPS Defendants are without sufficient information or belief to admit or deny paragraph 20 and therefore deny same.

21. EPS Defendants are without sufficient information or belief to admit or deny paragraph 21 and therefore deny same.

22. EPS Defendants are without sufficient information or belief to admit or deny paragraph 22 and therefore deny same.

23. EPS Defendants are without sufficient information or belief to admit or deny paragraph 23 and therefore deny same.

24. EPS Defendants are without sufficient information or belief to admit or deny paragraph 24 and therefore deny same.

25. EPS Defendants are without sufficient information or belief to admit or deny paragraph 25 and therefore deny same.

26. EPS Defendants are without sufficient information or belief to admit or deny paragraph 26 and therefore deny same.

27. EPS Defendants are without sufficient information or belief to admit or deny paragraph 27 and therefore deny same.

28. EPS Defendants are without sufficient information or belief to admit or deny paragraph 28 and therefore deny same.

29. EPS Defendants are without sufficient information or belief to admit or deny paragraph 29 and therefore deny same.

30. EPS Defendants are without sufficient information or belief to admit or deny paragraph 30 and therefore deny same.

II. DEFENDANT GREGOR'S EMPLOYMENT BY DEFENDANT SFPS

31. EPS Defendants are without sufficient information or belief to admit or deny paragraph 31 and therefore deny same.

32. EPS Defendants are without sufficient information or belief to admit or deny paragraph 32 and therefore deny same.

33. EPS Defendants are without sufficient information or belief to admit or deny paragraph 33 and therefore deny same.

34. EPS Defendants are without sufficient information or belief to admit or deny paragraph 34 and therefore deny same.

35. EPS Defendants are without sufficient information or belief to admit or deny paragraph 35 and therefore deny same.

36. EPS Defendants are without sufficient information or belief to admit or deny paragraph 36 and therefore deny same.

37. EPS Defendants are without sufficient information or belief to admit or deny paragraph 37 and therefore deny same.

38. EPS Defendants are without sufficient information or belief to admit or deny paragraph 38 and therefore deny same.

39. EPS Defendants are without sufficient information or belief to admit or deny paragraph 39 and therefore deny same.

40. EPS Defendants are without sufficient information or belief to admit or deny paragraph 40 and therefore deny same.

41. EPS Defendants are without sufficient information or belief to admit or deny paragraph 41 and therefore deny same.

42. EPS Defendants are without sufficient information or belief to admit or deny paragraph 42 and therefore deny same.

43. EPS Defendants are without sufficient information or belief to admit or deny paragraph 43 and therefore deny same.

44. EPS Defendants are without sufficient information or belief to admit or deny paragraph 44 and therefore deny same.

45. EPS Defendants are without sufficient information or belief to admit or deny paragraph 45 and therefore deny same.

46. EPS Defendants are without sufficient information or belief to admit or deny paragraph 46 and therefore deny same.

47. EPS Defendants are without sufficient information or belief to admit or deny paragraph 47 and therefore deny same.

48. EPS Defendants are without sufficient information or belief to admit or deny paragraph 48 and therefore deny same.

49. EPS Defendants are without sufficient information or belief to admit or deny paragraph 49 and therefore deny same.

50. EPS Defendants are without sufficient information or belief to admit or deny paragraph 50 and therefore deny same.

51. EPS Defendants are without sufficient information or belief to admit or deny paragraph 51 and therefore deny same.

52. EPS Defendants are without sufficient information or belief to admit or deny paragraph 52 and therefore deny same.

53. EPS Defendants are without sufficient information or belief to admit or deny paragraph 53 and therefore deny same.

54. EPS Defendants are without sufficient information or belief to admit or deny paragraph 54 and therefore deny same.

55. EPS Defendants are without sufficient information or belief to admit or deny paragraph 55 and therefore deny same.

56. EPS Defendants are without sufficient information or belief to admit or deny paragraph 56 and therefore deny same.

57. EPS Defendants are without sufficient information or belief to admit or deny paragraph 57 including subparts a-f and therefore deny same.

58. EPS Defendants are without sufficient information or belief to admit or deny paragraph 58 and therefore deny same.

59. EPS Defendants are without sufficient information or belief to admit or deny paragraph 59 and therefore deny same.

60. EPS Defendants are without sufficient information or belief to admit or deny paragraph 60 and therefore deny same.

61. EPS Defendants are without sufficient information or belief to admit or deny paragraph 61 and therefore deny same.

62. EPS Defendants are without sufficient information or belief to admit or deny paragraph 62 and therefore deny same.

63. EPS Defendants are without sufficient information or belief to admit or deny paragraph 63 and therefore deny same.

64. EPS Defendants are without sufficient information or belief to admit or deny paragraph 64 and therefore deny same.

65. EPS Defendants are without sufficient information or belief to admit or deny paragraph 65 and therefore deny same.

66. EPS Defendants are without sufficient information or belief to admit or deny paragraph 66 including subparts a-e and therefore deny same.

67. EPS Defendants are without sufficient information or belief to admit or deny paragraph 67 and therefore deny same.

68. EPS Defendants are without sufficient information or belief to admit or deny paragraph 68 and therefore deny same.

69. EPS Defendants are without sufficient information or belief to admit or deny paragraph 69 and therefore deny same.

70. EPS Defendants are without sufficient information or belief to admit or deny paragraph 70 and therefore deny same.

71. EPS Defendants are without sufficient information or belief to admit or deny paragraph 71 and therefore deny same.

III. DEFENDANT GREGOR'S EMPLOYMENT BY DEFENDANT EPS

72. EPS Defendants are without sufficient information or belief to admit or deny paragraph 72 and therefore deny same.

73. EPS Defendants admit paragraph 73.

74. Upon information and belief EPS Defendants admit paragraph 74.

75. EPS Defendants admit paragraph 75.

76. EPS Defendants admit paragraph 76.

77. EPS Defendants admit paragraph 77.

78. EPS Defendants are without sufficient information or belief to admit or deny as to whether Defendant Montoya was told by "Ms. Lorraine" that the little girl could not participate in the art activity, and therefore deny same. EPS Defendants admit the remainder of the allegations in paragraph 78.

79. EPS Defendants admit paragraph 79.

80. EPS Defendants are without sufficient information or belief to admit or deny paragraph 80 and therefore deny same.

81. EPS Defendants admit paragraph 81.

82. EPS Defendants admit that neither Defendant Montoya nor Defendant EPS notified CYFD or law enforcement. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 82 and therefore deny same.

83. EPS Defendants admit paragraph 83.

84. EPS Defendants admit paragraph 84.

85. EPS Defendant admits paragraph 85.

86. EPS Defendants admit paragraph 86.

87. EPS Defendants are without sufficient information or belief to admit or deny paragraph 87 and therefore deny same.

88. EPS Defendants admit paragraph 88.

89. EPS Defendants are without sufficient information or belief to admit or deny that Ms. Hyde is the aforementioned “Ms. Lorraine” as well as subparts a-n and therefore deny same. EPS Defendants admit all other allegations not denied.

90. EPS Defendants are without sufficient information or belief to admit or deny paragraph 90 and therefore deny same.

91. EPS Defendants are without sufficient information or belief to admit or deny paragraph 91 and therefore deny same.

92. EPS Defendants deny paragraph 92.

93. EPS Defendants are without sufficient information or belief to admit or deny paragraph 93 and therefore deny same.

94. EPS Defendants are without sufficient information or belief to admit or deny paragraph 94 and therefore deny same.

95. EPS Defendants are without sufficient information or belief to admit or deny paragraph 95 and therefore deny same.

96. EPS Defendants are without sufficient information or belief to admit or deny paragraph 96 and therefore deny same.

97. EPS Defendants are without sufficient information or belief to admit or deny paragraph 97 and therefore deny same.

98. EPS Defendants are without sufficient information or belief to admit or deny paragraph 98 and therefore deny same.

99. EPS Defendants are without sufficient information or belief to admit or deny paragraph 99 and therefore deny same.

100. EPS Defendants are without sufficient information or belief to admit or deny paragraph 100 and therefore deny same.

101. EPS Defendants are without sufficient information or belief to admit or deny paragraph 101 and therefore deny same.

102. EPS Defendants are without sufficient information or belief to admit or deny paragraph 102 and therefore deny same.

103. EPS Defendants are without sufficient information or belief to admit or deny paragraph 103 and therefore deny same.

104. EPS Defendants admit paragraph 104.

105. EPS Defendants are without sufficient information or belief to admit or deny paragraph 105 and therefore deny same.

106. EPS Defendants are without sufficient information or belief to admit or deny paragraph 106 and therefore deny same.

107. EPS Defendants are without sufficient information or belief to admit or deny paragraph 107 and therefore deny same.

108. EPS Defendants deny paragraph 108.

109. EPS Defendants are without sufficient information or belief to admit or deny paragraph 109 and therefore deny same.

110. EPS Defendants are without sufficient information or belief to admit or deny paragraph 110 and therefore deny same.

111. EPS Defendants are without sufficient information or belief to admit or deny paragraph 111 and therefore deny same.

112. EPS Defendants are without sufficient information or belief to admit or deny paragraph 112 and therefore deny same.

113. EPS Defendants admit paragraph 113.

114. Upon information and belief EPS Defendants admit paragraph 114.

115. Upon information and belief EPS Defendants admit paragraph 115.

116. Upon information and belief EPS Defendants admit paragraph 116.

117. EPS Defendants are without sufficient information or belief to admit or deny paragraph 117 and therefore deny same.

118. EPS Defendants are without sufficient information or belief to admit or deny paragraph 118 and therefore deny same.

119. EPS Defendants are without sufficient information or belief to admit or deny paragraph 119 and therefore deny same.

120. EPS Defendants are without sufficient information or belief to admit or deny paragraph 120 and therefore deny same.

121. EPS Defendants are without sufficient information or belief to admit or deny paragraph 121 and therefore deny same.

122. EPS Defendants admit paragraph 122.

123. EPS Defendants are without sufficient information or belief to admit or deny paragraph 123 and therefore deny same.

124. Upon information and belief EPS Defendants admit paragraph 124.

125. EPS Defendants are without sufficient information or belief to admit or deny paragraph 125 and therefore deny same.

126. EPS Defendants are without sufficient information or belief to admit or deny paragraph 126 and therefore deny same.

127. EPS Defendants are without sufficient information or belief to admit or deny paragraph 127 and therefore deny same.

128. EPS Defendants are without sufficient information or belief to admit or deny paragraph 128 and therefore deny same.

129. EPS Defendants are without sufficient information or belief to admit or deny paragraph 129 and therefore deny same.

130. EPS Defendants are without sufficient information or belief to admit or deny paragraph 130 and therefore deny same.

131. EPS Defendants are without sufficient information or belief to admit or deny paragraph 131 and therefore deny same.

132. EPS Defendants admit that Defendant Montoya never contacted CYFD or law enforcement but denies the remaining allegations in paragraph 132. Further, paragraph 132 sets forth a legal conclusion for which an answer is generally not required, but to the extent that any response is required, such allegations are denied.

133. EPS Defendants are without sufficient information or belief to admit or deny paragraph 133 and therefore deny same.

A. DEFENDANT GREGOR'S ALLEGED SEXUAL ABUSE OF STUDENT VS

134. EPS Defendants are without sufficient information or belief to admit or deny paragraph 134 and therefore deny same.

135. EPS Defendants are without sufficient information or belief to admit or deny paragraph 135 and therefore deny same.

136. EPS Defendants are without sufficient information or belief to admit or deny paragraph 136 and therefore deny same.

137. EPS Defendants are without sufficient information or belief to admit or deny paragraph 137 and therefore deny same.

138. EPS Defendants are without sufficient information or belief to admit or deny paragraph 138 and therefore deny same.

139. EPS Defendants are without sufficient information or belief to admit or deny paragraph 139 and therefore deny same.

140. EPS Defendants are without sufficient information or belief to admit or deny paragraph 140 and therefore deny same.

141. EPS Defendants deny paragraph 141.

142. EPS Defendants are without sufficient information or belief to admit or deny paragraph 142 and therefore deny same.

143. EPS Defendants deny paragraph 143.

144. EPS Defendants deny paragraph 144.

145. EPS Defendants admit paragraph 145.

146. Upon information and belief the EPS Defendants did not contact either CYFD or the police.

147. EPS Defendants deny paragraph 147.

148. EPS Defendants deny paragraph 148.

149. EPS Defendants are without sufficient information or belief to admit or deny paragraph 149 and therefore deny same.

150. EPS Defendants are without sufficient information or belief to admit or deny paragraph 150 and therefore deny same.

B. DEFENDANT GREGOR'S ALLEGED SEXUAL ABUSE OF STUDENT NH

151. EPS Defendants are without sufficient information or belief to admit or deny paragraph 151 and therefore deny same.

152. EPS Defendants are without sufficient information or belief to admit or deny paragraph 152 and therefore deny same.

153. EPS Defendants are without sufficient information or belief to admit or deny paragraph 153 and therefore deny same.

154. EPS Defendants are without sufficient information or belief to admit or deny paragraph 154 and therefore deny same.

155. EPS Defendants are without sufficient information or belief to admit or deny paragraph 155 and therefore deny same.

156. EPS Defendants are without sufficient information or belief to admit or deny paragraph 156 and therefore deny same.

157. EPS Defendants are without sufficient information or belief to admit or deny paragraph 157 and therefore deny same.

158. EPS Defendants are without sufficient information or belief to admit or deny paragraph 158 and therefore deny same.

159. EPS Defendants are without sufficient information or belief to admit or deny paragraph 159 and therefore deny same.

160. EPS Defendants are without sufficient information or belief to admit or deny paragraph 160 and therefore deny same.

161. EPS Defendants are without sufficient information or belief to admit or deny paragraph 161 and therefore deny same.

162. EPS Defendants are without sufficient information or belief to admit or deny paragraph 162 and therefore deny same.

163. EPS Defendants are without sufficient information or belief to admit or deny paragraph 163 and therefore deny same.

164. EPS Defendants are without sufficient information or belief to admit or deny paragraph 164 and therefore deny same.

165. EPS Defendants are without sufficient information or belief to admit or deny paragraph 165 and therefore deny same.

166. EPS Defendants are without sufficient information or belief to admit or deny paragraph 166 and therefore deny same.

167. EPS Defendants deny paragraph 167.

168. EPS Defendants deny paragraph 168.

169. EPS Defendants are without sufficient information or belief to admit or deny paragraph 169 and therefore deny same.

170. EPS Defendants are without sufficient information or belief to admit or deny paragraph 170 and therefore deny same.

171. EPS Defendants are without sufficient information or belief to admit or deny paragraph 171 and therefore deny same.

172. EPS Defendants are without sufficient information or belief to admit or deny paragraph 172 and therefore deny same.

173. EPS Defendants are without sufficient information or belief to admit or deny paragraph 173 and therefore deny same.

C. DEFENDANT GREGOR'S ALLEGED SEXUAL ABUSE OF PLAINTIFF KS

174. EPS Defendants are without sufficient information or belief to admit or deny paragraph 174 and therefore deny same.

175. EPS Defendants are without sufficient information or belief to admit or deny paragraph 175 and therefore deny same.

176. EPS Defendants are without sufficient information or belief to admit or deny paragraph 176 and therefore deny same.

177. EPS Defendants are without sufficient information or belief to admit or deny paragraph 177 and therefore deny same.

178. EPS Defendants are without sufficient information or belief to admit or deny paragraph 178 and therefore deny same.

179. EPS Defendants are without sufficient information or belief to admit or deny paragraph 179 and therefore deny same.

180. EPS Defendants are without sufficient information or belief to admit or deny paragraph 180 and therefore deny same.

181. EPS Defendants are without sufficient information or belief to admit or deny paragraph 181 and therefore deny same.

182. EPS Defendants are without sufficient information or belief to admit or deny paragraph 182 and therefore deny same.

183. EPS Defendants are without sufficient information or belief to admit or deny paragraph 183 and therefore deny same.

184. EPS Defendants are without sufficient information or belief to admit or deny paragraph 184 and therefore deny same.

185. EPS Defendants are without sufficient information or belief to admit or deny paragraph 185 and therefore deny same.

186. EPS Defendants are without sufficient information or belief to admit or deny paragraph 186 and therefore deny same.

187. EPS Defendants are without sufficient information or belief to admit or deny paragraph 187 and therefore deny same.

188. EPS Defendants are without sufficient information or belief to admit or deny paragraph 188 and therefore deny same.

189. EPS Defendants are without sufficient information or belief to admit or deny paragraph 189 and therefore deny same.

190. EPS Defendants are without sufficient information or belief to admit or deny paragraph 190 and therefore deny same.

191. EPS Defendants deny any allegation that the alleged incident as described in paragraph 191 was reported to Defendant Montoya. EPS Defendants deny the remaining allegations of paragraph 191.

192. EPS Defendants deny paragraph 192.

193. EPS Defendants deny paragraph 193.

194. EPS Defendants are without sufficient information or belief to admit or deny paragraph 194 and therefore deny same.

195. EPS Defendants are without sufficient information or belief to admit or deny paragraph 195 and therefore deny same.

196. EPS Defendants deny paragraph 196.

197. EPS Defendants are without sufficient information or belief to admit or deny paragraph 197 and therefore deny same.

198. EPS Defendants are without sufficient information or belief to admit or deny paragraph 198 and therefore deny same.

199. EPS Defendants are without sufficient information or belief to admit or deny paragraph 199 and therefore deny same.

200. EPS Defendants are without sufficient information or belief to admit or deny paragraph 200 and therefore deny same.

201. EPS Defendants are without sufficient information or belief to admit or deny paragraph 201 and therefore deny same.

202. EPS Defendants are without sufficient information or belief to admit or deny paragraph 202 and therefore deny same.

D. DEFENDANT GREGOR'S ALLEGED ABUSE IS REPORTED TO LAW ENFORCEMENT

203. EPS Defendants are without sufficient information or belief to admit or deny paragraph 203 and therefore deny same.

204. EPS Defendants are without sufficient information or belief to admit or deny paragraph 204 and therefore deny same.

205. EPS Defendants are without sufficient information or belief to admit or deny paragraph 205 and therefore deny same.

206. EPS Defendants are without sufficient information or belief to admit or deny paragraph 206 and therefore deny same.

IV. POST-REPORTING BEHAVIOR OF DEFENDANTS MONTOYA AND EPS

207. EPS Defendants are without sufficient information or belief to admit or deny paragraph 207 and therefore deny same.

208. EPS Defendants admit paragraph 208.

209. EPS Defendants admit paragraph 209.

210. EPS Defendants are without sufficient information or belief to admit or deny paragraph 210 and therefore deny same.

211. EPS Defendants are without sufficient information or belief to admit or deny paragraph 211 including subparts a-d and therefore deny same.

212. EPS Defendants are without sufficient information or belief to admit or deny paragraph 212 and therefore deny same.

213. EPS Defendants admit that EPS conducted its own investigation but EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 213 and therefore deny same.

214. EPS Defendants are without sufficient information or belief to admit or deny paragraph 214 and therefore deny same including subparts a-c.

215. EPS Defendants are without sufficient information or belief to admit or deny paragraph 215 and therefore deny same.

216. EPS Defendants are without sufficient information or belief to admit or deny paragraph 216 and therefore deny same.

217. EPS Defendants admit paragraph 217.

218. EPS Defendants admit paragraph 218.

219. Upon information and belief EPS Defendants admit paragraph 219.

COUNT I

(Plaintiff's Claims Against Defendant Gregor Under 42 U.S.C. § 1983)

220. EPS Defendants incorporate their previous responses as if set out fully herein.

221. Paragraph 221 calls for a legal conclusion for which an answer is generally not required. To the extent that an answer is required, EPS Defendants are without sufficient information or belief to admit or deny paragraph 221 and therefore deny same.

222. EPS Defendants are without sufficient information or belief to admit or deny paragraph 222 and therefore deny same.

223. EPS Defendants are without sufficient information or belief to admit or deny paragraph 223 and therefore deny same.

224. EPS Defendants are without sufficient information or belief to admit or deny paragraph 224 and therefore deny same.

225. EPS Defendants are without sufficient information or belief to admit or deny paragraph 225 and therefore deny same.

226. EPS Defendants are without sufficient information or belief to admit or deny paragraph 226 and therefore deny same.

227. EPS Defendants are without sufficient information or belief to admit or deny paragraph 227 and therefore deny same.

228. EPS Defendants are without sufficient information or belief to admit or deny paragraph 228 and therefore deny same.

229. EPS Defendants are without sufficient information or belief to admit or deny paragraph 229 and therefore deny same.

230. EPS Defendants are without sufficient information or belief to admit or deny paragraph 230 and therefore deny same.

COUNT II

(Plaintiff's Claim Against Defendants SFPS and EPS Under 42 U.S.C. § 1983)

231. EPS Defendants incorporate their previous responses as if set out fully herein.

232. Paragraph 232 calls for a legal conclusion for which an answer is generally not required. To the extent that an answer is required, EPS Defendants are without sufficient information or belief to admit or deny paragraph 232 and therefore deny same.

233. EPS Defendants deny paragraph 233.

234. EPS Defendants deny paragraph 234.

235. EPS Defendants deny paragraph 235.

236. EPS Defendants deny paragraph 236.

237. EPS Defendants deny paragraph 237.

COUNT III

(Plaintiff's Claims Against Defendant Sewing Under 42 U.S.C. § 1983)

238. EPS Defendants incorporate their previous responses as if set out fully herein.

239. EPS Defendants are without sufficient information or belief to admit or deny paragraph 239 and therefore deny same.

240. EPS Defendants are without sufficient information or belief to admit or deny paragraph 240 and therefore deny same.

241. EPS Defendants are without sufficient information or belief to admit or deny paragraph 241 and therefore deny same.

242. EPS Defendants are without sufficient information or belief to admit or deny paragraph 242 and therefore deny same.

243. EPS Defendants are without sufficient information or belief to admit or deny paragraph 243 and therefore deny same.

244. EPS Defendants are without sufficient information or belief to admit or deny paragraph 244 and therefore deny same.

245. EPS Defendants are without sufficient information or belief to admit or deny paragraph 245 and therefore deny same.

246. EPS Defendants are without sufficient information or belief to admit or deny paragraph 246 and therefore deny same.

247. EPS Defendants are without sufficient information or belief to admit or deny paragraph 247 and therefore deny same.

248. EPS Defendants are without sufficient information or belief to admit or deny paragraph 248 and therefore deny same.

COUNT IV

(Plaintiff's Claims Against Defendant Montoya Under 42 U.S.C. § 1983)

249. EPS Defendants incorporate their previous responses as if set out fully herein.

250. Paragraph 250 sets forth a legal conclusion for which an answer is generally not required. To the extent that an answer is required, EPS Defendants are without sufficient information or belief to admit or deny paragraph 250 and therefore deny same.

251. EPS Defendants deny paragraph 251.

252. EPS Defendants deny paragraph 252.

253. EPS Defendants deny paragraph 253.

254. EPS Defendants deny paragraph 254.

255. EPS Defendants deny paragraph 255.

256. EPS Defendants deny paragraph 256.

257. EPS Defendants deny paragraph 257.

258. EPS Defendants deny paragraph 258.

259. EPS Defendants deny paragraph 259.

COUNT V

(Plaintiff's Claims Against Defendant EPS Under Title IX, 20 U.S.C. §§ 1681-1688, for Sexual Abuse)

260. EPS Defendants incorporate their previous responses as if set out fully herein.

261. EPS Defendants are without sufficient information or belief to admit or deny paragraph 261 and therefore deny same.

262. EPS Defendants are without sufficient information or belief to admit or deny paragraph 262 and therefore deny same.

263. EPS Defendants deny paragraph 263.

264. EPS Defendants deny paragraph 264.

265. EPS Defendants are without sufficient information or belief to admit or deny paragraph 265 and therefore deny same.

266. EPS Defendants deny paragraph 266.

267. EPS Defendants deny paragraph 267.

268. Upon information and belief EPS Defendants state that the Española Public Schools has received federal funding and financial assistance.

269. Paragraph 269 set forth a legal conclusion for which an answer is generally not required. To the extent a response is required, EPS Defendants are without sufficient information or belief to admit or deny paragraph 269 and therefore deny same.

270. EPS Defendants deny paragraph 270.

271. EPS Defendants deny paragraph 271.

272. EPS Defendants deny paragraph 272.

273. EPS Defendants deny paragraph 273.

COUNT VI

(Plaintiff's Claims Against Defendant EPS Under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-6)

274. EPS Defendants incorporate their previous responses as if set out fully herein.

275. EPS Defendants admit that the Española Public Schools operated Fairview Elementary School, which KS attended, as well as other public schools in Española. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 275 and therefore deny same.

276. EPS Defendants are without sufficient information or belief to admit or deny paragraph 276 and therefore deny same.

277. Paragraph 277 sets forth a legal conclusion for which a response is generally not required. To the extent that a response is required, the EPS Defendants are without sufficient information or belief to admit or deny paragraph 277 and therefore deny same.

278. Paragraph 278 sets forth a legal conclusion for which a response is generally not required. To the extent that a response is required, the EPS Defendants are without sufficient information or belief to admit or deny paragraph 278 and therefore deny same.

279. Paragraph 279 sets forth a legal conclusion for which a response is generally not required. To the extent that a response is required, the EPS Defendants are without sufficient information or belief to admit or deny paragraph 279 and therefore deny same.

280. Paragraph 280 sets forth a legal conclusion for which a response is generally not required. To the extent that a response is required, the EPS Defendants are without sufficient information or belief to admit or deny paragraph 280 and therefore deny same.

281. Paragraph 281 sets forth a legal conclusion for which a response is generally not required. To the extent that a response is required, the EPS Defendants are without sufficient information or belief to admit or deny paragraph 281 and therefore deny same.

282. Paragraph 282 sets forth a legal conclusion for which a response is generally not required. To the extent that a response is required, the EPS Defendants are without sufficient information or belief to admit or deny paragraph 282 and therefore deny same.

283. EPS Defendants deny paragraph 283.

284. EPS Defendants deny paragraph 284.

285. EPS Defendants deny paragraph 285.

286. EPS Defendants deny paragraph 286.

287. Paragraph 287 sets forth a legal conclusion for which a response is generally not required. To the extent that a response is required, the EPS Defendants are without sufficient information or belief to admit or deny paragraph 287 and therefore deny same.

288. EPS Defendants deny paragraph 288.

COUNT VII

(Plaintiff's Common Law Battery Claim Against Defendant Gregor)

289. EPS Defendants incorporate their previous responses as if set out fully herein.

290. EPS Defendants are without sufficient information or belief to admit or deny paragraph 290 and therefore deny same.

291. EPS Defendants are without sufficient information or belief to admit or deny paragraph 291 and therefore deny same.

292. EPS Defendants are without sufficient information or belief to admit or deny paragraph 292 and therefore deny same.

293. EPS Defendants are without sufficient information or belief to admit or deny paragraph 293 and therefore deny same.

294. EPS Defendants are without sufficient information or belief to admit or deny paragraph 294 and therefore deny same.

COUNT VIII

(Plaintiff's Common Law Negligence Per Se Claim Against Defendant Gregor)

295. EPS Defendants incorporate their previous responses as if set out fully herein.

296. EPS Defendants are without sufficient information or belief to admit or deny paragraph 296 and therefore deny same.

297. EPS Defendants are without sufficient information or belief to admit or deny paragraph 297 and therefore deny same.

298. EPS Defendants are without sufficient information or belief to admit or deny paragraph 298 and therefore deny same.

COUNT IX

(Plaintiff's Common Law Intentional Infliction of Emotional Distress/Outrage Against Defendant Gregor)

299. EPS Defendants incorporate their previous responses as if set out fully herein.

300. EPS Defendants are without sufficient information or belief to admit or deny paragraph 300 and therefore deny same.

301. EPS Defendants are without sufficient information or belief to admit or deny paragraph 301 and therefore deny same.

302. EPS Defendants are without sufficient information or belief to admit or deny paragraph 302 and therefore deny same.

COUNT X

(Plaintiff's Common Law Negligence Per Se Claim Against Defendants Sewing and Montoya)

303. EPS Defendants incorporate their previous responses as if set out fully herein.

304. EPS Defendants deny the allegations as to Defendant Montoya. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 304 and therefore deny same.

305. EPS Defendants deny the allegations as to Defendant Montoya. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 305 and therefore deny same.

306. EPS Defendants deny paragraph 306.

PRAYER FOR RELIEF

307. EPS Defendants incorporate their previous response as if set out fully herein.

308. EPS Defendants deny the allegations in paragraph 308 made against them. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 308 as to other Defendants and therefore deny same.

309. EPS Defendants deny the allegations in paragraph 309 made against them. EPS Defendants are without sufficient information or belief to admit or deny the remaining allegations in paragraph 309 as to other Defendants and therefore deny same.

310. EPS Defendants deny paragraph 310.

311. EPS Defendants state that Plaintiff KS requested jury by trial on all issues triable in paragraph 311.

Further, any paragraph or allegation not specifically addressed herein is denied.

AFFIRMATIVE DEFENSES

COME NOW The Española Public Schools and Ruby E. Montoya, in her individual capacity, hereby assert the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

As to the constitutional claims for damages asserted against Ruby E. Montoya she is cloaked with qualified immunity.

SECOND AFFIRMATIVE DEFENSE

Plaintiff is precluded from the recovery of punitive damages and pre-judgment interest on her state tort claims pursuant to the Tort Claims Act.

THIRD AFFIRMATIVE DEFENSE

Any damages sustained by Plaintiff were directly caused by the actions or inactions of third parties for whom the EPS Defendants are not responsible.

FOURTH AFFIRMATIVE DEFENSE

As to Plaintiff's negligence claims, the EPS Defendants state that if they are or were negligent, which is specifically denied, the negligence of all parties whether named or unnamed in this lawsuit should be compared and contrasted and negligence apportioned accordingly.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims may be barred in whole or part pursuant to the Statute of Limitations.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's constitutional claims for punitive damages are barred as a matter of law.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's constitutional claim failed as a matter of law.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff has failed to set forth any claim that can be advanced against the EPS Defendants pursuant to the Tort Claims Act.

NINTH AFFIRMATIVE DEFENSE

The Plaintiff did not provide timely notice pursuant to the Tort Claims Act.

WHEREFORE, the Española Public Schools and Ruby E. Montoya have asserted their affirmative defenses, and respectfully request dismissal of Plaintiff's claims against them with prejudice, and an award of attorney fees and costs and such other relief as the Court deems just and as allowed by law.

Respectfully submitted,

WALZ AND ASSOCIATES, P.C.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of May, 2014, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected in the Notice of Electronic Filing:

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